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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,771	01/27/2004	Constance C. Trigger	11632	1934

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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/765,771

Applicant(s)

TRIGGER, CONSTANCE C.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 10-16 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Feb. 22, 2005.

**Claim 6 is non-compliant with 37 CFR 1.121 since canceled claims must be indicated by only the claim number and status, without presenting the text of the claims.**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albertoni (U.S. Patent No. 1,473,393) in view of Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365) and Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889).

Albertoni shows in figures 1-3 a label portion (15), having information thereon, a flexible cord/string (10) attached to the label portion (15) at one end, and at least one clasp (11) on the flexible cord for securing the flexible cord to the object (5-8). Albertoni discloses the applicant's basic inventive concept except for making the tag from heat shrinkable material and making the

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clasp in the form of a bead. Fascenelli, Jr. et al. shows in figures 1-3 a tag that is made from heat shrinkable material. In view of the teachings of Fascenelli, Jr. et al. it would have been obvious to one in the art to modify Albertoni by making the label portion from heat shrinkable material since this would create a more durable and aesthetically pleasing label portion. Pineda shows in figures 1 and 2 a bead (5) that is used to adjust the size of a lanyard. Strykower shows in figures 1-7 the idea of placing a plurality of beads (20,23,24) on a cord for securing the cord to an object. In view of the teachings of Pineda or Strykower it would have been obvious to one in the art to modify Albertoni by replacing the clasp with a bead since this would allow the device to be made in an easier and less expensive manner and would create a more aesthetically pleasing device. In regard to claim 2, Fascenelli, Jr. et al. discloses the idea of making the material from plastic, see column 2, lines 5-8. In regard to claim 3, Albertoni does not disclose whether the cord/string is waterproof, however the examiner takes official notice that waterproof cord/string is well known and it would have been obvious to one in the art to make the cord/string from a waterproof material since this would form a more durable and longer lasting string/cord. In regard to claim 7, Albertoni shows in figure 1 textual information on the label portion.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albertoni (U.S. Patent No. 1,473,393) in view of Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365) and Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889) as applied to claim 1 and further in view of Arnt (U.S. Patent No. 5,269,564).

Albertoni in view of Fascenelli, Jr. et al. and Pineda or Strykower disclose the applicant's basic inventive concept except for looping the cord through a hole in the label portion and

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looping said flexible cord through itself. Arnt shows in figure 3 the idea of looping a cord (29) through a hole in the label portion and looping the flexible cord through itself. In view of the teachings of Arnt it would have been obvious to one in the art to modify Albertoni by looping the cord through a hole in the label portion and looping said flexible cord through itself since this would allow the label portion to be attached to and removed from the cord in an easier and faster manner.

Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flood (U.S. Patent No. 2,488,280) in view of and Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889) and Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365).

Flood shows in figures 1-3 a label portion (T), a flexible cord/string (F,S) attached to the label portion (T) at one end, and at least one member (K) on the flexible cord for securing the flexible cord to the object (B). Flood discloses the applicant's basic inventive concept except for making the at least one member (K) in the form of a bead and making the tag from heat shrinkable material. Pineda shows in figures 1 and 2 a bead (5) that is used to adjust the size of a lanyard. Strykower shows in figures 1-7 the idea of placing a plurality of beads (20,23,24) on a cord for securing the cord to an object. In view of the teachings of Pineda or Strykower it would have been obvious to one in the art to modify Flood by replacing the member (K) with a bead since this would create a more durable and aesthetically pleasing adjusting member. Fascenelli, Jr. et al. shows in figures 1-3 a tag that is made from heat shrinkable material. In view of the teachings of Fascenelli, Jr. et al. it would have been obvious to one in the art to modify Flood by

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making the label portion from heat shrinkable material since this would create a more durable and aesthetically pleasing label portion. Flood discloses that the member (T) is a tag and it is therefore considered to inherently have indicia/information thereon. In regard to claim 2, Fascenelli, Jr. et al. discloses the idea of making the material from plastic, see column 2, lines 5-8. In regard to claim 3, Flood does not disclose whether the cord/string is waterproof, however the examiner takes official notice that waterproof cord/string is well known and it would have been obvious to one in the art to make the cord/string from a waterproof material since this would form a more durable and longer lasting string/cord. In regard to claim 7, Flood discloses that the member (T) is a tag and it is therefore considered to inherently have indicia/information thereon.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flood (U.S. Patent No. 2,488,280) in view of Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889) and Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365) as applied to claim 1 above and further in view of Harris (U.S. Patent No. 6,120,146).

Flood in view of Pineda or Strykower and Fascenelli, Jr. et al. disclose the applicant's basic inventive concept except for attaching the label portion to a pair of swim goggles. Harris shows in figures 1-3 the idea of attaching a tag to a pair of eyeglasses. In view of the teachings of Harris it would have been obvious to one in the art to modify Flood by attaching the tag to a pair of eyeglasses since this would allow the label portion to be used on a wider range of products. Eyeglasses and goggles are closely related and it is considered within one skilled in the art to place the label portion onto any type of eyeglass type items including swim goggles.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flood (U.S. Patent No. 2,488,280) in view of Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889) and Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365) as applied to claim 1 above and further in view of Arnt (U.S. Patent No. 5,269,564).

Flood in view of Pineda or Strykower and Fascenelli, Jr. et al. disclose the applicant's basic inventive concept except for looping the cord through a hole in the label portion and looping said flexible cord through itself. Arnt shows in figure 3 the idea of looping a cord (29) through a hole in the label portion and looping the flexible cord through itself. In view of the teachings of Arnt it would have been obvious to one in the art to modify Flood by looping the cord through a hole in the label portion and looping said flexible cord through itself since this would allow the label portion to be attached to and removed from the cord in an easier and faster manner.

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flood (U.S. Patent No. 2,488,280) in view of Pineda (U.S. Patent No. 6,691,904) or Strykower (U.S. Patent No. 2,572,889) and Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365) as applied to claim 1 above and further in view of Paulson (U.S. Patent No. 1,345,874).

In regard to claim 5, Flood in view of Pineda or Strykower and Fascenelli, Jr. et al. disclose the applicant's basic inventive concept except for attaching the label portion to a pair of swim goggles. Paulson shows in figure 2 the idea of attaching a tag to an item (watch) that is to

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be repaired. Swim goggles are conventional items in the art. In view of the teachings of Paulson it would have been obvious to one in the art to modify Flood by attaching the tag to swim goggles since this would allow the articles to be easily and quickly labeled for repair purposes. In regard to claim 9, Flood in view of Pineda or Strykower and Fascenelli, Jr. et al disclose the applicant's basic inventive concept except for looping the cord around the object and looping said flexible cord through itself. Paulson shows in figure 2 the idea of looping a cord around the object and looping the flexible cord through itself. In view of the teachings of Paulson it would have been obvious to one in the art to modify Flood by looping the cord around the object and looping said flexible cord through itself since this would allow the label portion and cord to be attached to and removed from the object in an easier and faster manner.

Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane (U.S. Patent No. 2,449,727) in view of Strykower (U.S. Patent No. 2,572,889) and Fascenelli, Jr. et al. (U.S. Patent No. 5,690,365).

Sloane shows in figures 1-5 a label portion (3) having information thereon, a flexible cord/string (13) attached to the label portion (3) at one end and to and to an object (person) at the other end. Sloane does not disclose whether the cord includes a bead. Strykower shows in figures 1-7 the idea of placing a plurality of beads (20,23,24) on a cord for securing the cord to an object. In view of the teachings of Strykower it would have been obvious to one in the art to modify Flood by replacing the cord with the type of cord and bead arrangement taught by Pineda or Strykower since this would allow the cord and label portion to be attached to the object in a more secure manner. Fascenelli, Jr. et al. shows in figures 1-3 a tag that is made from heat



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shrinkable material. In view of the teachings of Fascenelli, Jr. et al. it would have been obvious to one in the art to modify Sloane by making the label portion from heat shrinkable material since this would create a more durable and aesthetically pleasing label portion. In regard to claim 2, Fascenelli, Jr. et al. discloses the idea of making the material from plastic, see column 2, lines 5-8. In regard to claim 3, Sloane in view of Strykower do not disclose whether the cord/string is waterproof, however the examiner takes official notice that waterproof cord/string is well known and it would have been obvious to one in the art to make the cord/string from a waterproof material since this would form a more durable and longer lasting string/cord. In regard to claim 4, Strykower teaches the idea of attaching a plurality of beads to the cord.

### *Response to Arguments*

Applicant's arguments filed June 14, 2005 have been fully considered but most of the arguments are moot in view of the new grounds of rejection.

The applicant argues that it would not have been obvious to one in the art to modify Albertoni in view of Fascenelli, Jr. The examiner disagrees since the tag taught by Fascenelli, Jr et al. provides the advantage of creating a more durable and aesthetically pleasing display.

The applicant argues that it could not reasonably be expected that a skilled artisan looking to improve on the tagging device of Sloane would look to teachings in Strykower. The examiner disagrees since the addition of more or beads of Strykower would provide the advantage of allowing the label portion to be attached to the object in a more secure manner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
Aug. 23, 2005